

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

0

CIVIL MINUTES - GENERAL

Case No.	5:13-cv-01678-CAS(DTBx)	Date	February 3, 2014
Title	LORENA GARCIA V. MORTGAGE SENSE INC., ET AL.		

Present: The Honorable	CHRISTINA A. SNYDER
------------------------	---------------------

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendant

Not Present

Not Present

Proceedings: (IN CHAMBERS) PLAINTIFF'S REQUEST FOR LEAVE TO FILE A CERTIFICATE OF APPEALABILITY (Dkt. #24, filed Jan. 24, 2014)

Plaintiff Lorena Garcia, proceeding pro se, filed this action on September 17, 2013, asserting various claims related to a mortgage loan secured by a deed of trust on the property located at 6188 Indigo Avenue, Rancho Cucamonga, California 91701. Dkt. #1. The Court dismissed this action by order dated November 25, 2013. Dkt. #19. The Court found that plaintiff failed to state a valid federal claim, and declined to exercise supplemental jurisdiction over plaintiff's claims under California law. Id. Additionally, the complaint did not allege a basis for exercising jurisdiction over the action based on diversity of citizenship. Id. The Court granted plaintiff leave to amend the complaint, and noted that failure to file an amended complaint could result in dismissal of the action with prejudice. Id.

Plaintiff did not file an amended complaint prior to the December 23, 2013 deadline, nor did she attempt to amend after the deadline. On December 30, 2013, plaintiff filed a request for leave to appeal in forma pauperis. Dkt. #22. The Court denied the request on January 6, 2014. Id.

On January 24, 2014, plaintiff filed a "request for permission to file a certificate of appealability." Dkt. #24. However, certificates of appealability are only issued in cases arising under 28 U.S.C. §§ 2254-55. See 28 U.S.C. § 2253(c)(1). This action does not arise under 28 U.S.C. §§ 2254-55, which concern petitions for a writ of habeas corpus. Accordingly, no certificate of appealability can be issued, nor is one required before plaintiff can pursue an appeal before the Ninth Circuit. To avoid confusion, the Court notes that its denial of plaintiff's request to proceed in forma pauperis refers only to

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

0

CIVIL MINUTES - GENERAL

Case No.	5:13-cv-01678-CAS(DTBx)	Date	February 3, 2014
Title	LORENA GARCIA V. MORTGAGE SENSE INC., ET AL.		

whether plaintiff can proceed with an appeal without pre-payment of any fees or costs. See 28 U.S.C. § 1915(a)(1). Plaintiff may nonetheless proceed with an appeal in the Ninth Circuit.

IT IS SO ORDERED.

Initials of Preparer

00	:	00
CMJ		